

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAMNANG SUY,

Petitioner,

No. CIV S-02-2765 RRB EFB P

vs.

CHERYL K. PLILER, Warden,

Respondent.

ORDER

Petitioner is a state prisoner proceeding *in propria persona* with this application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On September 7, 2007, petitioner filed a letter in which he requests that this court issue a temporary restraining order delaying his impending transfer to a prison in another state. Petitioner's request is essentially a challenge to the conditions of his confinement and may not be addressed in this habeas corpus action.

When a prisoner challenges the fact or duration of his custody and a determination of his action may result in plaintiff's entitlement to an earlier release, his sole federal remedy is a writ of habeas corpus. *Preiser v. Rodriguez*, 411 U.S. 475 (1973); *Young v. Kenny*, 907 F.2d 874 (9th Cir. 1990). The proper mechanism for raising a federal challenge to conditions of confinement, however, is through a civil rights action pursuant to 42 U.S.C. § 1983. *Badea v. Cox*, 931 F.2d 573, 574 (9th Cir. 1991). Petitioner is informed that he may file a civil rights complaint pursuant

1 to 42 U.S.C. § 1983 if he wishes to challenge his transfer to another prison. Petitioner is
2 cautioned that if he chooses to file a civil rights action it is probable that he will incur a liability
3 in the amount of the \$350.00 filing fee, which amount will be collected from his prison trust
4 account in full or in installments. *See* 28 U.S.C. §§ 1914(a), 1915(a).

5 Good cause appearing, IT IS HEREBY ORDERED that petitioner's September 6, 2007,
6 request for a temporary restraining order is denied without prejudice to its renewal in a civil
7 rights action pursuant to 42 U.S.C. § 1983.

8 DATED: November 20, 2007.

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10 EDMUND F. BRENNAN
11 UNITED STATES MAGISTRATE JUDGE
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